

REMARKS

Reconsideration of the above-identified application in view of the foregoing amendments and following arguments is respectfully requested.

Claims 19-40 have been deleted and replaced with new claims 41-76. No new matter has been added as a result of the addition of these claims.

Rejection of Claims Under 35 U.S.C. Section 112, Second Paragraph

Claims 19, 26, 32, 33, 36-37, 39-40 and 20-25, 27-31, 34 and 35 are rejected under 35 U.S.C. Section 112, second paragraph as being indefinite. Applicants submit that because these claims have been deleted that this rejection has now been rendered moot and should be withdrawn.

Applicants would like to point out that they recognize that claims 41, 47, 59 and 65 are missing the requisite ATCC Accession number. Upon indication of allowable subject matter, Applicants will deposit the necessary biological materials and insert the ATCC Accession Number into these claims.

Rejection of Claims Under 35 U.S.C. Section 112, First Paragraph

Claims 19-36 are rejected under 35 U.S.C. Section 112, first paragraph, as containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. This rejection is a new matter rejection. Claims 19-35 are also rejected under 35 U.S.C. Section 112, first paragraph. This rejection is a written description rejection. Applicants submit that because these claims have been deleted that these rejections have now been rendered moot and should be withdrawn.

Claims 19-36 and 39-40 are rejected under 35 U.S.C. Section 112, first paragraph, as containing subject matter that was not described in the

specification in such a way as to enable one skilled in the art to which it pertains or with which it was most nearly connected, to make or use the invention. Applicants submit that because these claims have been deleted that this rejection has now been rendered moot and should be withdrawn.

Claim Rejections - 35 U.S.C. Section 102(b)

Claims 19-23, 32 and 35 are rejected under 35 U.S.C. Section 102(b) as being anticipated by Harbaugh et al. Applicants submit that because these claims have been deleted that this rejection has now been rendered moot and should be withdrawn.

Claim Rejections – 35 U.S.C. Section 103

Claims 19-25, 32 and 35-36 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over Harbaugh et al. Applicants submit that because these claims have been deleted that this rejection has now been rendered moot and should be withdrawn.

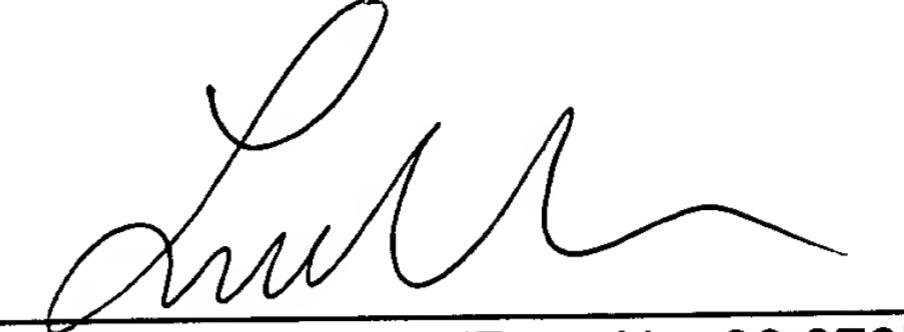
Interview Summary

On July 31, 2003, the undersigned attorney and Audrey Charles met with Examiner Grunberg. During the course of the interview, the new matter and written description rejections were discussed, particular the PTO's policy regarding the granting of claims to plants exhibiting a certain type of phenotype. Ms. Charles and Ms. Mueller wish to thank the Examiner for her helpfulness during this interview.

Applicants submit that the claims are now in condition for allowance.

If any additional fees, such as additional claim fees, are incurred as a result of the filing of this paper, authorization is given to charge deposit account number 23-0785.

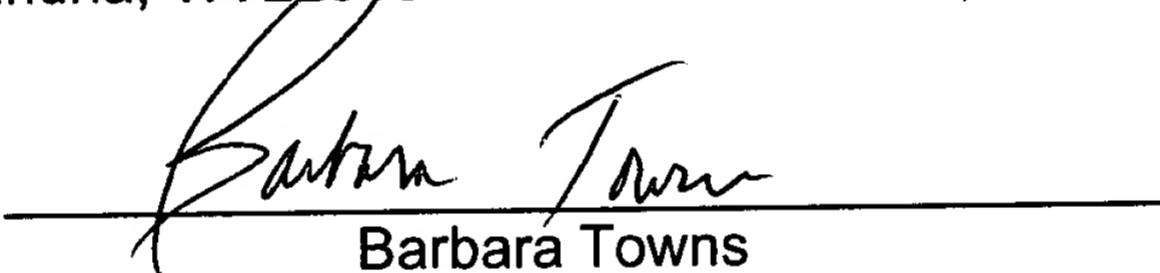
Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this amendment and any other documents referred to as enclosed herein are being deposited in an envelope with the United States Postal Service "First Class Mail Post Office Addressee" service under 37 C.F.R. 1.10 on the date indicated below and addressed to: Commissioner of Patents, PO Box 1450, Alexandria, VA 22313-1450 on October 17, 2003.


Barbara Towns